

HOUSE BILL 2675
By Cochran

AN ACT to amend Tennessee Code Annotated, Title 49,
Chapter 6, relative to scholarships to children
attending high priority schools.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. The general assembly hereby finds the following:

(1) Parents are best equipped to make decisions for their children, including the educational setting that will best serve the interests and educational needs of their child.

(2) For many parents, public school choice provided for under the No Child Left Behind Act of 2001 as well as under other public school choice programs, is inadequate due to capacity constraints. Available educational alternatives to the public schools are insufficient, and more educational options are needed. In particular, funds are needed to assist low-income parents to exercise choice among enhanced public opportunities and private educational environments, whether religious or nonreligious. Therefore, in keeping with the spirit of the No Child Left Behind Act of 2001, school choice options, in addition to those already available to parents in the state (such as charter schools and open enrollment schools) should be made available to those parents.

(3) A program enacted for the valid secular purpose of providing educational assistance to low-income children in a demonstrably failing public school system is constitutional under Zelman v. Simmons-Harris, 536 U.S. 639 (2002), if it is neutral with respect to religion and provides assistance to a broad class of citizens who direct government aid to religious and secular schools solely as a result of their genuine and independent private choices.

(4) This act does not rely on current educational funding, and therefore money for scholarships is not being taken out of money that would otherwise go to the state's public schools.

(5) This act creates a program tailored to the current needs and particular circumstances of low-income children in Tennessee's schools. This act shall be funded from the state's rainy day reserve fund for its first three (3) years and with general funds thereafter.

SECTION 2. Tennessee Code Annotated, Title 49, Chapter 6, is amended by adding Sections 3 through 13 of this act as a new part 83 thereto.

SECTION 3. This act shall be known and may be cited as the "Tennessee School Choice Act of 2005".

SECTION 4. The purpose of this act is to provide low-income parents residing in the state of Tennessee, particularly parents of students who attend elementary schools or secondary schools identified for improvement, corrective action, or restructuring under Section 1116 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6316), with expanded opportunities for enrolling their children in higher-performing schools in the state of Tennessee.

SECTION 5.

(a) From funds appropriated to effectuate this act, the commissioner of education shall award scholarships to eligible students with approved applications and give them expanded school choice opportunities.

(b) The commissioner and local school superintendents shall enter into a memorandum of understanding, regarding the design of, selection of eligible students to receive scholarships under, and implementation of, a program assisted under this act.

SECTION 6. In order to receive a scholarship under this act, an eligible student shall submit an application to the commissioner at such time, in such manner, and accompanied by such information as the commissioner may require.

SECTION 7. In awarding scholarships under this act, the commissioner shall:

(1) Give to eligible students who, in the school year preceding the school year for which the student is seeking a scholarship, attended an elementary school or secondary school identified for improvement, corrective action, or restructuring under Section 1116 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. § 6316);

(2) Dedicate resources to students and families that lack the financial resources to take advantage of available educational options; and

(3) Provide students and families with the widest range of educational options.

SECTION 8.

(a) Subject to subsections (b) and (c), the commissioner shall use scholarship funds to provide eligible students with scholarships to pay the tuition, fees, and transportation expenses, if any, to enable them to attend the elementary school or secondary school of their choice. The commissioner shall ensure that the amount of any tuition or fees charged by a school participating in the program under this act to an eligible student participating in the program does not exceed the amount of tuition or fees that the school customarily charges to students who do not participate in the program.

(b) The commissioner shall make scholarship payments under the program under this act to the parent or legal guardian of the eligible student participating in the program, in a manner which ensures that such payments will be used for the payment of tuition, fees, and transportation expenses, in accordance with this act.

(c)

(1) Subject to the other requirements of this section, the commissioner may award scholarships in larger amounts to those eligible students with the greatest need.

(2) The amount of a scholarship provided to any eligible student by the commissioner under a program under this act may not exceed seven thousand five hundred dollars (\$7,500) for any academic year.

(3) Notwithstanding the provisions of Section 13(3)(B), the commissioner under this act may award a scholarship to a student who comes from a household whose income does not exceed an adjusted gross income of thirty-five thousand dollars (\$35,000).

SECTION 9.

(a) A school participating in any program under this act shall not discriminate against program participants or applicants on the basis of race, color, national origin, religion, or sex.

(b)

(1) Notwithstanding any other provision of law, the prohibition of sex discrimination in subsection (a) shall not apply to a participating school that is operated by, supervised by, controlled by, or connected to a religious organization to the extent that the application of subsection (a) is inconsistent with the religious tenets or beliefs of the school.

(2) Notwithstanding subsection (a) or any other provision of law to the contrary, a parent may choose and a school may offer a single sex school, class, or activity.

(3) For purposes of this act, the provisions of Section 909 of the Education Amendments of 1972 (20 U.S.C. 1688) shall apply to this act as if

Section 909 of the Education Amendments of 1972 (20 U.S.C. §1688) were part of this act.

(c) Nothing in this act may be construed to alter or modify the provisions of the Individuals with Disabilities Education Act.

(d)

(1) Notwithstanding any other provision of law, a school participating in any program under this act that is operated by, supervised by, controlled by, or connected to, a religious organization may exercise its right in matters of employment consistent with Title VII of the Civil Rights Act of 1964 (42 U.S.C. 2000e-1 et seq.), including the exemptions in such act.

(2) Notwithstanding any other provision of law, funds made available under this act to eligible students that are received by a participating school, as a result of their parent's choice, shall not, consistent with the first amendment of the United States Constitution, necessitate any change in the participating school's teaching mission, require any participating school to remove religious art, icons, scriptures, or other symbols, or preclude any participating school from retaining religious terms in its name, selecting its board members on a religious basis, or including religious references in its mission statements and other chartering or governing documents.

(e) A scholarship under this act shall be considered assistance to the student and shall not be considered assistance to the school that enrolls the eligible student. The amount of any scholarship or other form of support provided to parents of an eligible student under this act shall not be treated as income of the parents for purposes of federal tax laws or for determining eligibility for any other federal program.

SECTION 10.

(a)

(1) The commissioner shall select an independent entity to evaluate annually the performance of students who received scholarships under this act, and shall make the evaluations public in accordance with subsection (c).

(2) The commissioner, through a grant, contract, or cooperative agreement, shall:

(A) Ensure that the evaluation is conducted using the strongest possible research design for determining the effectiveness of the programs funded under this act that addresses the issues described in subdivision (4); and

(B) Disseminate information on the impact of the programs in increasing the student academic achievement of participating students, and on the impact of the programs on students and schools in Tennessee to the general assembly.

(C) Provide annual reports on the effectiveness of this act to the education committees of the house and senate.

(3) The independent entity shall:

(A) Measure the academic achievement of all participating eligible students;

(B) Use the same grade-appropriate measurement every school year to assess participating eligible students as the measurement used by the Tennessee public schools to assess Tennessee public school students in the first year of the program;

(C) Work with the commissioner to ensure that the parents of each student who applies for a scholarship under this act (regardless of

whether the student receives the scholarship) and the parents of each student participating in the scholarship program under this act, agree that the student will participate in the measurements given annually by the independent entity for the period for which the student applied for or received the scholarship, respectively.

(4) The issues to be evaluated include the following:

(A) A comparison of the academic achievement of participating, eligible students in the measurements described in this section to the achievement of:

(i) Students in the same grades in the Tennessee public schools; and

(ii) The eligible students in the same grades in the Tennessee public schools who sought to participate in the scholarship program but were not selected.

(B) The success of the programs in expanding choice options for parents.

(C) The reasons parents choose for their children to participate in the programs.

(D) A comparison of the retention rates, dropout rates, and graduation and college admission rates, of students who participate in the programs funded under this act with the retention rates, dropout rates, and graduation and college admission rates of students of similar backgrounds who do not participate in such programs.

(E) The impact of the program on students and public elementary schools and secondary schools in Tennessee.

(F) A comparison of the safety of the schools attended by students who participate in the programs and the schools attended by students who do not participate in the programs.

(G) Such other issues as the commissioner considers appropriate for inclusion in the evaluation.

(5) Personally identifiable information regarding the results of the measurements used for the evaluations may not be disclosed, except to the parents of the student to whom the information relates.

(b) The commissioner shall submit to the education committees of the house and senate:

(1) Annual interim reports, not later than December 1 of each year for which a grant is made under this act, on the progress and preliminary results of the evaluation of the programs funded under this act; and

(2) A final report, not later than one (1) year after the final year for which a grant is made under this act, on the results of the evaluation of the programs funded under this act.

(c) All reports and underlying data gathered pursuant to this section shall be made available to the public upon request, in a timely manner following submission of the applicable report under subsection (b), except that personally identifiable information shall not be disclosed or made available to the public.

(d) The amount expended by the commissioner to carry out this section for any fiscal year may not exceed three percent (3%) of the total amount appropriated to carry out this act for the fiscal year.

SECTION 11.

(a) No report under this subsection may contain any personally identifiable information, except that personally identifiable information may be provided to each student's parents or legal guardians.

(b) The commissioner shall ensure that each school participating in the grantee's program under this act during a year reports at least once during the year to the parents of each of the school's students who are participating in the program on:

(A) The student's academic achievement, as measured by a comparison with the aggregate academic achievement of other participating students at the student's school in the same grade or level, as appropriate, and the aggregate academic achievement of the student's peers at the student's school in the same grade or level, as appropriate; and

(B) The safety of the school, including the incidence of school violence, student suspensions, and student expulsions.

SECTION 12.

(a) Each school participating in a program funded under this act shall comply with all requests for data and information regarding evaluations conducted under Section 10.

(b) A participating school, including those schools described in subsection (d) of Section 9, may require eligible students to abide by any rules of conduct and other requirements applicable to all other students at such school.

SECTION 13. As used in this act, unless the context otherwise requires:

(1) "Commissioner" means the commissioner of education;

(2) "Elementary school" means an institutional day or residential school, including a public elementary charter school that provides elementary education, as determined under Tennessee law;

(3) "Eligible student" means a student who:

(A) Is a resident of Tennessee; and

(B) Comes from a household whose annual income does not exceed thirty-five thousand dollars (\$35,000);

(4) "Parent" means the same as that term in Section 9101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. § 7801); and

(5) "Secondary school" means an institutional day or residential school, including a public secondary charter school, as determined under Tennessee law, except that the term does not include any education beyond grade 8.

SECTION 14. All funds for the implementation of the provisions of this act shall be appropriated and allotted from the Revenue Fluctuation Reserve fund.

SECTION 15. This act shall take effect July 1, 2006, the public welfare requiring it.